

Crawley Borough Council

Report to Cabinet 28 June 2023

Alcohol-Related ASB PSPO Extension

Report of the Head of Community Services, HCS/058

1. Purpose

- 1.1 On 21 October 2020 the Council made a Public Spaces Protection Order (PSPO) to prohibit the consumption of alcohol where that consumption contributes to, is linked to or is associated with nuisance or annoyance to members of the public or a section of the public, or to disorder. This was made under the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014 and is due to expire on 21 October 2023.
- 1.2 Section 60(2) of the Anti-Social Behaviour, Crime and Policing Act 2014 allows the local authority that made the order to extend the period for which the PSPO has effect if satisfied on reasonable grounds that doing so is necessary to prevent –
 - (a) occurrence or recurrence after that time of the activities identified in the order, or
 - (b) an increase in the frequency or seriousness of those activities after that time.
- 1.3 This report seeks the Cabinet's agreement and recommendation that Full Council extends the PSPO for a further 3 years to continue to prohibit the consumption of alcohol where that consumption contributes to, is linked to or is associated with nuisance or annoyance to members of the public or a section of the public, or to disorder in the borough of Crawley.

2. Recommendations

2.1 To the Cabinet

The Cabinet is recommended to:

- a) Request that Full Council extends for a period of 3 years the Borough wide Public Spaces Protection Order (PSPO) to prohibit the consumption of alcohol where that consumption contributes to, is linked to or is associated with nuisance or annoyance to members of the public or a section of the public, or to disorder in the borough of Crawley as set out in Appendix A
- b) Request that Full Council agrees that fixed penalties imposed for breaches of the PSPO to be maintained at £100.

3. Reasons for the Recommendations

- 3.1 A PSPO can target a range of behaviours and can prohibit specified activities or require certain things to be done by people engaged in certain activities. PSPOs can send a clear message that these behaviours will not be tolerated and help reassure residents and businesses that unreasonable conduct is being addressed.

- 3.2 Council officers consider it necessary to extend the PSPO in order to prevent an increase in the frequency and or/seriousness of anti-social behaviour linked to alcohol consumption in a public space after the current PSPO expires. The extension is also supported by the Police, the Police and Crime Commissioner (PCC) and West Sussex County Council.
- 3.3 The current PSPO has had success in tackling the detrimental effect that street drinking has on the public and businesses in the town centre.
- 3.4 The extension of the PSPO would continue to provide the police and council with a tool to tackle problems associated with alcohol-related nuisance, annoyance and disorder.

4. Background

- 4.1 The power for local authorities to make PSPOs were introduced under the Anti-social Behaviour Crime and Policing Act 2014. They are intended to deal with a particular nuisance or problem in a specific area that is having/likely to have a detrimental effect to the local community's quality of life, by imposing prohibitions and requirements on persons specified which are aimed at preventing or reducing the detrimental effect. They are intended to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
- 4.2 Before making, varying, extending, or discharging a PSPO, the council must carry out the necessary publicity, consultation and notifications and must publish information about the order in accordance with regulations.
- 4.3 A PSPO can be extended if certain criteria under section 60 of the Act are met. This includes that a council is satisfied upon reasonable grounds that an extension is necessary to prevent the activities specified in the PSPO from occurring or recurring, or to prevent an increase in frequency or seriousness of the activities after the end of the current PSPO. An extension can be repeated, and each extension can last for a period of up to 3 years. The impact of the original order should be evaluated.
- 4.4 Consultation must include formal consultation with the chief officer of the police, PCC, and whatever community representatives the local authority thinks it appropriate to consult, and the owner or occupier of land in the restricted area if reasonably practicable. The Council must also notify West Sussex County Council of the proposal. Further details regarding consultation are noted below, including the legal requirements which are set out in Section 8.
- 4.5 Where a PSPO includes a prohibition on the consumption of alcohol (which the current one does and would continue to do if extended) then section 63 of the Act is engaged, and the following applies:
 - (a) Where a constable or authorised local authority officer reasonably believes that a person is or has consumed alcohol in breach of a PSPO, or intends to do so, then they may require that person:
 - (i) not to consume, in breach of the order, alcohol or anything which the constable or authorised officer reasonably believes to be alcohol; or
 - (ii) to surrender anything in the person's possession which is, or which the constable or authorised officer reasonably believes to be, alcohol or a container for alcohol.
 - (b) When imposing one of the above requirements, the officer must tell the person that failing without reasonable excuse to comply with the requirement is an offence.

- (c) The imposition of a requirement will not be valid if the person asks the officer to show evidence of their authorisation and the officer does not do so.
 - (d) Consuming alcohol in breach of the PSPO is not in itself be an offence, however, it would be a criminal offence for a person to fail, without reasonable excuse, to comply with a requirement imposed on them. A person guilty of this offence is liable on conviction in a Magistrates' Court to a fine up to level 2 on the standard scale (currently £500) or to a fixed penalty (currently set locally at the statutory maximum of £100).
 - (e) A constable or authorised officer may dispose of anything surrendered in compliance with a requirement however they think appropriate.
- 4.6 Once the PSPO has been extended, an "interested party" namely, an individual being anyone who lives in, or who regularly works in or visits the restricted area, can challenge the validity of the PSPO in the High Court within six weeks of the making of the Order. A similar challenge exists if a PSPO is varied by the council.
- 4.7 Within the confines of the legal framework, councils have the freedom to determine their own procedures for introducing a PSPO including satisfying themselves that the statutory requirements are met and giving final approval for the Order to go ahead.
- 4.8 The existing PSPO signage is not dated and will not need to be adjusted should the decision be to extend the Order.

5. Description of Issue to be resolved

- 5.1 Alcohol-related nuisance and anti-social behaviour is activity that impacts on the quality of life and perception of feeling safe. This type of behaviour has a negative impact on the local community and businesses.
- 5.2 Key locations that are currently affected include town centre particularly Queens Square and Memorial Gardens, Broadfield Barton, Langley Green Parade, Three Bridges Playing Field/Jubilee Field, and the path that links them together and Goffs Park. Having a borough wide PSPO (excluding Gatwick Airport) enables the police and council to address this behaviour wherever it arises in a robust manner.
- 5.3 Since the PSPO was made in October 2020, authorised Council Officers have seized alcohol on 67 occasions and issued four FPNs for breach of PSPO. The restrictions during the pandemic reduced the need to enforce the PSPO in late 2020 and early 2021 and in 2022, CBC Officers were retrained to ensure they could tackle anti-social street drinking effectively.
- 5.4 Alcohol-related anti-social behaviour, nuisance and disorder has been a long-standing issue, prior to the introduction of PSPOs, a borough wide Designed Public Places Order (DPPO) had been in place since 2006. There is an expectation from the public that the council and police continue to utilise all the powers available to them to address this behaviour.

6. Consultation, Information & Analysis Supporting Recommendation

- 6.1 Consultation took place from 10 May 2023 to 7 June 2023. A copy of the consultation questions is included in Appendix B.

6.2 A range of methods have been used including:

- Consultation with the police, PCC, WSCC, Crawley & Gatwick Business Watch and Crawley Town Centre BID
- Publicity via the local press
- Social media
- Online questionnaire
- Paper copies of questionnaire on request
- Promotion to local businesses via Crawley & Gatwick Business Watch, Crawley Town Centre BID, Manor Royal BID
- Display of posters in ward notice boards, Crawley and Broadfield libraries, Crawley, Three Bridges and Ifield Train Stations and key hotspot locations

6.3 Formal consultation has taken place with Sussex Police. Assistant Chief Constable Howard Hodges said:

“This is a proportionate and effective measure to reduce and tackle alcohol related crime and ASB which has worked well and is an essential tool in the armoury of both the police and wider partners.”

6.4 Formal consultation has taken place with the Police and Crime Commissioner, and they have confirmed they are in support of the proposal to extend the PSPO for a further three years.

6.5 Formal consultation has taken place with West Sussex County Council, and they have confirmed their support for the extension of the PSPO.

6.6 Consultation responses:

- 103 responses were received, 97 were members of the public, 5 were business and 1 was from a community group representative.
- 87% of respondents supported the extension of the PSPO.
- 89% of the public respondents strongly supported the PSPO extension, 4% somewhat supported and 7% did not support.
- 60% of the businesses respondents strongly support the PSPO extension, 20% somewhat supported and 20% did not support.
- The community group representative strongly supported the PSPO extension.
- 59% of respondents felt that alcohol related anti-social behaviour was a significant problem. 36% felt it was somewhat of a problem and 5% not a problem at all.
- 81% of respondents felt that the PSPO has had a positive impact on those living in Crawley.
- 78% of respondents felt that the PSPO has had a positive impact on those visiting Crawley.
- 72% of respondents felt that the PSPO has had a positive impact on those working in Crawley.
- Key area highlighted in the comments section were Queens Square, Three Bridges playing field/cricket field and Goffs Park.

6.9 Records have been kept by Crawley Borough Council in relation to alcohol confiscation, figures are shown below. Compliance is high when individuals are requested to stop consuming alcohol and surrender any vessels believed to contain alcohol.

- October 2020 – December 2020 – PSPO not enforced due to Covid restrictions
- January 2021 – December 2021 – 3

- January 2022 – December 2022 – 60
- January 2023 – March 2023 – 2

- 6.10 The number of Fixed Penalty Notices issued since October 2020 has been 4.
- 6.11 Sussex Police are unable to provide figures on PSPO-related interventions as they do not routinely capture this data.
- 6.12 Police recorded crime data for alcohol related crime and alcohol related public place crime both decreased between 2021/22 and 2022/23. Street Drinking has decreased year on year over the last three years.

Crawley District	Alcohol Related Crime	Alcohol Related Public Place Crime	Street Drinking
2020/21	567	158	83
2021/22	770 (+35.8%)	203 (+28.5%)	48 (-42.2%)
2022/23	657 (-14.7%)	158 (-22%)	36 (-25%)

Source: Sussex Police

7. Financial Implications

- 7.1 There are no significant financial implications.
- 7.2 Legal costs in the event of prosecutions being taken. To date no prosecutions have been necessary.

8. Legal and Risk Implications

- 8.1 The government has issued statutory guidance in respect of powers under the Anti-Social Behaviour, Crime and Policing Act 2014 (which includes the power to make and extend PSPOs) and it is recommended that this guidance is taken into account in making decisions in relation to this report. The guidance can be found on the government's website. The LGA has also published guidance for local authorities.
- 8.2 Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 gives local authorities the powers to make a PSPO. Section 60 give the power to extend a PSPO and Section 61 gives the power to vary one. The requirements for consultation, notification and publication are set out in section 72 of the 2014 Act and in the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014.
- 8.3 Before making or renewing a PSPO the Council must publicise the text of the proposed order and:
- consult with the chief police officer and the local policing body
 - consult with such community representatives as the Council thinks appropriate
 - consult (as reasonably practicable) the owners or occupiers of land in the area of the proposed order
 - notify West Sussex County Council
 - consider any representations made.
- 8.4 The Council has complied with the above requirements and in order to complete the process must take into account any consultation responses before taking its decision, which it has done.
- 8.5 Section 72(1) of the Act also specifically states that the Council, when deciding to extend a PSPO, and if so for how long to extend it, must have "particular regard" to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the

European Convention for the Protection of Human Rights and Fundamental Freedoms (as given effect in domestic law by the Human Rights Act 1998).

- 8.6 The consultation process and making of PSPOs in some locations to address some issues have received wide public criticism, particularly where they have sought to address behaviours linked to homelessness and begging. However, Crawley has had an order prohibiting the consumption of alcohol when associated with nuisance, annoyance or disorder, or it believed it will lead to nuisance, annoyance or disorder since 2006 initially via the DPPO and as a PSPO since 2017, therefore of legal challenge if the PSPO is extended, is assessed to be low.
- 8.7 The Cabinet is reminded of the requirement under the Public Sector Equality duty (Section 149 of the Equality Act 2010) to have due regard to the duty when making this decision.

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